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Our first care is your health care

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

June 6, 2008

Charles A. Blanchard
Perkins, Coie, Brown and Bain
2901 N. Central Avenue, Suite 2000
Phoenix, Az 85015-2788

Re: MCP Protest of Award of Acute Care Services – Pima County
Solicitation number YH09-0001

Dear Mr. Blanchard:

Pursuant to Arizona Administrative Code (“A.A.C.”) section R9-22-604(G), this letter serves as the decision of the procurement officer in response to the protest of Request for Proposal (“RFP”) number YH09-0001 filed by Mercy Care Plan (“MCP”) which was received by the AHCCCS Administration on May 23, 2008.

After careful consideration, as set forth below, AHCCCS has decided that MCP is entitled to 4 of the 39 points claimed in the protest. The cumulative effect of the additional points is not material to the award of contracts; that is, it does not change MCP’s ranking among the offerors in Pima County. Therefore, the protest is denied.

Prior to responding to each issue MCP raises in its protest letter, AHCCCS wishes to clarify two misconceptions contained in the letter.

First, the MCP protest states that some points should be awarded based on prior AHCCCS performance monitoring results that demonstrate compliance with the evaluation criteria. Please be advised that AHCCCS did not use any prior knowledge of bidder performance in the evaluation of any proposal, and only evaluated the proposals in making a determination on contract award. This was done specifically to maintain fairness, as AHCCCS has no prior knowledge of bidders who are not currently contracted. Therefore, current contractors neither benefited nor were penalized by current performance unless the RFP requested information about a specific aspect of past performance.

Second, the MCP protest letter asserts that AHCCCS should have taken into account information in the proposal other than in MCP’s specific responses to RFP items. As bidders were informed in advance, AHCCCS only awarded points if the evaluation criteria were in the response to the submission item being evaluated. Bidders were advised repeatedly they could not exceed three pages per item response, and information elsewhere in the proposals would not be sought out and cross-referenced. For instance, Section I, Paragraph 14 of the RFP requires that responses to each submission requirement must be limited to three single spaced pages of 11 point font except where the Instructions explicitly permitted or required otherwise. Also, bidders were advised of this restriction during the Question and Answer process. Specifically the following Question and Answer were incorporated to the RFP via amendment on February 28, 2008:

Potential Bidders Question:

Can a response to one question include a reference to examples or parts of a response in another question due to the limited length and font size of each response?

AHCCCS Answer:

No.

In addition, Attachment J to the RFP required offerors to specify the exact pages of the proposal where the response could be found. AHCCCS evaluated all the pages MCP identified as responsive to each submission requirement at the time of scoring. The MCP Checklist included none of the additional pages now being cited in the protest letter. All proposals were evaluated in the same manner. Awarding points for information contained in other responses would be inconsistent with and vitiates the very purpose of the page limitations.

To the extent MCP's protest is intended to object to the page limitations or the requirement to identify the pages on which the responses may be found, the protest is denied as untimely because the protest was not filed prior to the due date for the receipt of proposals as required by A.A.C. R9-22-604(D).

The following is a point by point response to each of the arguments made in the MCP May 23, 2008 protest letter.

ORGANIZATION

1. Submission Number and Evaluation Criteria 3-2 and 3-3

MCP asserts that it should get 2 points that would be awarded to a bidder describing an on-going training program for staff on Fraud and Abuse, in addition to on-going training on contract requirements, and state/federal regulations. MCP believes it should get these points because MCP received full compliance in a prior Operational and Financial Review conducted by AHCCCS. Additionally, MCP stated, "on-going training needs are determined by trends in operations, frequent questions from staff members, feedback from managers and new requirements/procedures/policies." Additionally MCP describes a process whereby staff who are promoted are given training in these areas specific to their new role.

As previously stated, AHCCCS considered only the contents of each proposal in the evaluation process. Any results of prior monitoring by AHCCCS were not considered in the evaluation process. Additionally, the intent of the evaluation criteria was to ascertain if bidders have in place training that orients new staff as well as provides refresher information for staff that have been in their positions for a length of time. This requirement is not documented in an assumption sheet because this is generally understood by subject matter experts. The statements in the proposal that MCP determines training needs based on the needs MCP identifies, or when staff change positions does not meet the evaluation criteria that staff (including employees that are not being promoted or reassigned) receive on-going training in important aspects of contract compliance. All bidders were evaluated against this understanding of "on-going".

Decision: No additional points are awarded.

2. Submission Number and Evaluation Criteria 7-1

MCP asserts it should get 3 points that would be awarded to a bidder with no sanctions since January 2005, because it is appealing a sanction levied by AHCCCS, four days prior to the bid submission.

The Scoring Team addressed this issue by documenting that even if sanctions were pending, the points would not be awarded. All bidders were evaluated in this manner. In addition, MCP reports a separate sanction levied against an owner facility. This sanction also makes MCP ineligible to receive these points.

Decision: No additional points are awarded.

3. Submission Number and Evaluation Criteria 10-1 and 10-2

MCP asserts it should get 2 points that would be awarded to bidders who describe an external Information Technologies audit because MCP described a recent SAS 70 audit.

Although MCP's one paragraph response refers to testing claims process controls and general computer controls of the Phoenix Service Center, this description is inadequate to determine if an IT specific external operational audit or external performance review was performed.

Decision: No additional points are awarded.

4. Submission Number and Evaluation Criteria 13-2

MCP asserts that it should get 1 point that would be awarded to bidders who describe the use of remittance advices citing specific reasons for denial or partial payment because MCP described the remittance advice it uses on pages 361-366.

The Scoring Team did not award these points because the description of the remittance advice was not provided in the response to submission requirement 56 (which would logically include information on remittance advices since it requested a "detailed flowchart and narrative description of the claims adjudication process"), but rather in response to submission requirement 58 (which did not request information on remittance advices but asked for "a description of the clinical edits and data related edits included in the claims adjudication process."). As previously stated, only the response to the specific submission item was considered in the evaluation process, and information provided in response to other questions was not considered. All bids were evaluated in this fashion.

Decision: No additional point is awarded.

5. Submission Number and Evaluation Criteria 14-4

MCP asserts that it should get 1 point that would be awarded to bidders who describe an evaluation of plans to correct deficiencies because MCP stated there is a multidisciplinary team that "monitors and manages of [sic] our claims issues management activities".

The Scoring Team did not award this point because MCP did not specifically address the evaluation of the effectiveness of corrective action plans as part of their correction activities. MCP does state it develops corrective action plans, but does not state they are evaluated for effectiveness. This language was required to earn this point. All bidders were evaluated in this manner. Upon re-review, it is determined that the Scoring Team was correct in its assessment that MCP did not state it evaluates the effectiveness of corrective actions.

Decision: No additional point is awarded.

6. Submission Number and Evaluation Criteria 14-6

MCP asserts that it should get the one point that would be awarded to bidders who describe a process to correct identified deficiencies in encounter reporting because MCP stated it identifies encounters that need to be corrected, and that is the evaluation criteria as stated in the assumption sheet.

An assumption sheet was created for the submission item solely to clarify that identification referred to adjudicated encounters requiring replacement or voiding. To be awarded the point, it was still necessary for bidders to state erroneous encounters are corrected. Upon re-review it was determined that MCP did not address the correction component of the submission requirement.

Decision: No additional point is awarded.

7. Submission Number and Evaluation Criteria 15-2 c., d., e., and g

MCP asserts that it should get 4 points because the proposal did document compliance with these evaluation criteria. Upon re-review, it is determined that the MCP submission did meet 3 of the 4 evaluation criteria (15-2c., e., and g.). However, the MCP proposal does not adequately describe how MCP assures adherence to AHCCCS Policy. MCP states that “adjudicated claims are reviewed against nationally recognized standards, such the Correct Coding Initiative as well as Medical Policy requirements and maximum unit requirements supplied by AHCCCS.” First, it is not clear from the response what the source of the Medical Policy requirements are. Second, AHCCCS has not established maximum unit requirements as policy.

Decision: 3 additional points are awarded.

8. Submission Number and Evaluation Criteria 18-1

MCP asserts that it should get this 1 point because it states that it submits all encounters.

The evaluation criterion is that the bidder submit all services as encounters to AHCCCS. In order to assure that all services are included in the encounter file, bidders must describe how claims are matched or compared to the encounter file to verify that all claims have been converted into encounters. MCP failed to include a description of this step in its response. Upon re-review, it is determined that the Scoring Team was correct in the initial scoring.

Decision: No additional point is awarded.

9. Submission Number and Evaluation Criteria 18-10 and 18-11

MCP asserts it should get the 1 point that would be awarded to bidders who use a management report to reconcile claims to encounters because the assumption sheet states that the mere mention of an Encounter Submission Tracking Report (ESTR) meets the criteria. Further, MCP asserts it should get the 1 point that would be awarded to bidders who describe how they track timeliness of encounter submissions.

In the RFP Section D, Paragraph 38, an ESTR report is defined as a report that compares claims to encounters. In the MCP proposal, MCP defines an Encounter Tracking Report (ETR) that compares the encounters MCP has submitted to the encounters accepted by AHCCCS, which is different than the ESTR defined in the RFP. MCP also describes the use of the QNXT/EMS Transfer Validation Reports, which compares paid claim counts to encounter counts in EMS to confirm that all claims files are successfully transferred to EMS. However, the evaluation criteria specified that the comparison must be between the claims financial fields and the encounter financial fields, not just the number of claims in the encounter file.

Additionally, the MCP proposal states that MCP **can** use the ETR to identify aging pending encounters. MCP does not state that they **do** use the report to identify aging encounters, nor does the proposal state that MCP monitors encounter submission timeliness in the aggregate to assure compliance with AHCCCS requirements.

Decision: No additional point is awarded.

10. Submission Number and Evaluation Criteria 19-1

MCP asserts it should get 1 point that would be awarded to bidders who describe how member grievances are monitored for resolution. Upon re-review, it is determined that the response does meet the submission criteria.

Decision: 1 additional point is awarded.

11. Submission Number and Evaluation Criteria 19-2

MCP asserts it should get the 1 point awarded to bidders who state member grievances are resolved within 90 days.

MCP states that it responds to written service grievances within 10 days of receipt, and clinical/quality grievances no more than 90 days from receipt. MCP states that it accepts verbal grievances, and monitors them for resolution, but does not cite the time frame by which MCP monitors its performance on responding to verbal grievances, which is why the point was denied.

MCP argues in their protest that since internal monitoring of resolution timeframes indicate “97% of service grievances and three percent of clinical/quality grievances are within an average of .06 and 18.66 days, respectively”, it is implicit that nearly all grievances are responded to in 90 days. Average days to resolution is not an appropriate measure of compliance with this standard because measuring the average time frame does not allow the bidder to know whether there are some grievances whose resolution fall outside the time frame. For example, MCP reports that three percent of clinical/quality grievances are resolved within 18.66 days. This does not provide any indication of the time frame to resolve the other 97% of the clinical quality grievances. All bidders were evaluated in this manner. Upon re-review, it is determined that the Scoring Team was correct in the initial score.

Decision: No additional point is awarded.

12. Submission Number and Evaluation Criteria 19-3

MCP asserts it should get the 1 point awarded to bidders because it is, “monitoring member information for timeliness”, and should be awarded the point on that basis. However, the criterion is specifically evaluating whether or not bidders are monitoring resolution timelines when complaints are referred to other departments. MCPs response mentioned referrals to the Quality Management (QM) Department but does not address monitoring for timeliness of QMs response. Referrals to other departments are not addressed at all. All bidders were evaluated in this manner. Upon re-review, it is determined that the Scoring Team was correct in the initial scoring.

Decision: No additional point is awarded.

13. Submission Number and Evaluation Criteria 21-4

MCP asserts that it should get the one point awarded to bidders who state that translation services are provided at no cost to the member.

Upon re-review, it is determined that MCPs response does make this statement. However, the evaluation criterion is that the availability of no cost translation services must be communicated to members via methods other than the member handbook or website. In re-reviewing the submission, it is determined that MCP did not indicate any method of communication other than the member handbook and website.

Decision: No additional point is awarded.

14. Submission Number and Evaluation Criteria 23-1.a, b., and c

MCP asserts it should get a point for communicating to members on how, when and where to file a grievance. The submission item requires bidders to address both member and provider grievances. The MCP response does not address how providers are informed about how to file grievances with MCP. Additionally, MCP’s protest states that because MCP member services does receive member grievances, it should be assumed that all members know when, where and how to file grievances. The mere existence

of grievances against the plan is not an adequate demonstration that MCP is committed to educating members on this important beneficiary protection.

Decision: No additional point is awarded.

PROGRAM: QUALITY MANAGEMENT

15. Submission Number and Evaluation Criteria 3-4

MCP asserts it should be awarded a point because it states it uses network providers in its peer review process. However, MCP acknowledges that its proposal does not identify local (community) providers as participants on its peer review committee. The evaluation criterion specifically requires the bidder to state in their proposal that they use local providers. All bidders were evaluated in this manner.

Decision: No additional point is awarded.

16. Submission Number and Evaluation Criteria 4-2.d

MCP asserts that it should be awarded the point for describing a process for insuring confidentiality of quality of care complaints because the proposal discusses how MCP provides initial and on-going staff training on maintaining confidentiality. The MCP proposal fails to describe the actual process by which it maintains the confidentiality of these complaints. By contrast, on the very next item, 4-2.e., MCP described the actual process by which a level of severity is assigned to a quality of care complaint, and was awarded that point.

Decision: No additional point is awarded.

17. Submission Number and Evaluation Criteria 4-6

MCP asserts that it should get a point for considering data on quality of care concerns in the recredentialing process. Neither the MCP response to submission requirement 16 nor the protest letter states that quality of care concern information is included in the recredentialing process.

Decision: no additional point is awarded.

18. Submission Number and Evaluation Criteria 6-1

MCP asserts it should be awarded a point for describing the provisional, initial and recredentialing process in compliance with JCAHO, NCQA or the AHCCCS AMPM requirements. To earn this point, bidders had to describe the credentialing process (application, file creation, committee review, etc.), and all required elements for review identified by either JCAHO, NCQA, or the AHCCCS AMPM. While MCP described the general process, it did not address all the elements that are required to be evaluated, i.e., past or present illegal drug use.

Decision: No additional point is awarded.

19. Submission Number and Evaluation Criteria 10-1

MCP asserts that it should be awarded the 3 points that would be awarded to a bidder who demonstrated sustained statistically significant improvement.

As part of the evaluation of a bidder's ability to improve performance, AHCCCS examined the accuracy of the submitted statistical analysis. This is important because AHCCCS requires contractors to continuously monitor their own performance through application of analytical techniques such as those required in this submission item. Contractors must be able to identify and remediate deficiencies in their performance and require accurate information to do so.

In the proposal, MCP reported their results as having a probability value of less than .06 ($p < .06$). When AHCCCS attempted to replicate these results applying a Pearson's Chi-square test, it yielded a chi-square value of 3.148 which converts to a p value of .0645, which is greater than .06 ($p > .06$). A chi-square test is the most appropriate technique when data is categorical and there is a large sample size. The points were not awarded because MCP did not accurately report the results of their testing. All bidders were evaluated in this manner.

Decision: No additional points are awarded.

PROGRAM: EPSDT/MCH

20. Submission Number and Evaluation Criteria 3-2

MCP asserts it should be awarded a point because MCP describes how it communicates to PCPs that members have been referred or are enrolled with AzEIP. However, nowhere in the proposal or the protest letter does MCP describe how it encourages PCPs to communicate back to AzEIP the results of assessments and services provided to individual AzEIP enrollees. Both components are required for awarding the point, as stated in the assumption sheet which comports with the AHCCCS Medical Policy Manual (AMPM), chapter 400.

Decision: No additional point is awarded.

21. Submission Number and Evaluation Criteria 3-6

MCP asserts it should be awarded one point because it discusses care coordination for children with special health needs. However, the evaluation criteria specifically required bidders to describe coordination of oral health services. MCP response did not address this aspect of care coordination.

Decision: No additional point is awarded.

PROGRAM: BEHAVIORAL HEALTH

22. Submission Number and Evaluation Criteria 1-1.f.

MCP asserts that it should be awarded a point for having in place mechanisms to identify members in need of behavioral health services in addition to those cited in criteria 1-1-a through 1-1-e. In its protest, MCP maintains that the Health Status Assessment (HSA), the NICU report and AHCCCS and RBHA enrollment reports satisfy this criterion.

The HSA is a member self report mechanism, for which a point is awarded in 1-1.e. In the proposal, MCP describes that a nurse reviews the NICU report to identify parents who may need services. In the protest letter MCP states that the NICU report is provided by hospitals, but this information was not provided in the proposal itself. Based on the statement in the proposal that a MCP case manager reviews this report, the point for this activity was awarded under 1-1.c. Finally, reports from AHCCCS and the RBHA are reports of members already identified as needing behavioral health services. This activity would not have been awarded a point under any of the criteria as the members are already identified.

Decision: No additional point is awarded.

PROGRAM: MEDICAL MANAGEMENT

23. Submission Number and Evaluation Criteria 2-5

MCP asserts that it should have been awarded a point because the proposal does describe a change to an ineffective intervention. However, upon reading the submission, it is clear that the removal of the prior authorization requirement for histamine2-receptor antagonists (H2RA) is not in response to an identified problem requiring an intervention. Rather, this action caused the problem of over utilization of these

medications. The intervention described in this section is the introduction of a step therapy program. This intervention was effective, and therefore MCP did not meet the evaluation criteria.

Decision: No additional point is awarded.

NETWORK: Management and Development

24. Submission Number and Evaluation Criteria 8-2

MCP asserts it should be awarded a point for changing the network to accommodate the needs of special populations. MCP cites a response to another submission requirement as addressing this issue, and as previously stated, only the response to the specific submission requirement was evaluated. MCP additionally cites language in the response being evaluated that individual member needs around accessibility and network gaps are resolved as they are identified, but does not state these efforts are made to accommodate special populations.

Decision: No additional point is awarded.

25. Submission Number and Evaluation Criteria 8-5.e

MCP asserts that it should be awarded a point for using data regarding general claims inquiries to manage or improve the provider network based on the totality of its response across pages 102 -105. Pages 102 – 104 are in response to another submission requirement, and as previously stated, only the response to the specific submission requirement was evaluated. Page 105 does not address the evaluation criterion.

Decision: No additional point is awarded.

26. Submission Number and Evaluation Criteria 8-6

MCP asserts it should be awarded a point for closing provider panels when providers are not able to comply with appointment availability standards. The MCP proposal does state the provider panels are restricted when there are concerns about the quality of care delivered by the provider, but does not specifically state that panels are restricted when appointments are not available.

Decision: No additional point is awarded.

27. Submission Number and Evaluation Criteria 10-1.e

MCP asserts that it should be awarded a point for evaluating the effectiveness of interventions designed to improve the provider network. The proposal and protest state that MCP develops and implements interventions, and monitors them to completion. Neither the proposal nor the protest letter describes that MCP evaluates interventions to determine their effectiveness at resolving the identified problem.

Decision: No additional point is awarded.

28. Submission Number and Evaluation Criteria 11-5

MCP asserts that it should be awarded one point for analyzing utilization data for members already identified by providers as having a problem keeping appointments (no-shows). MCP makes this assertion based on language in the proposal that states MCP is working on ways to predict what members will have a no show problem in the future, based on utilization data. This response does not address the evaluation criterion of looking at utilization trends for members already identified as having a history of not showing for appointments.

Decision: No additional point is awarded.

29. Submission Number and Evaluation Criteria 11-7

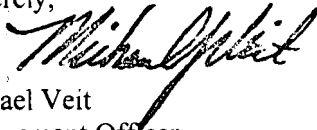
MCP asserts that it should have been awarded a point for making adjustments to an ineffective intervention because the proposal describes a change to a standard operating procedure. However, MCP does not state that this change in operating procedure was due to it being determined ineffective, nor was this change in process evaluated for effectiveness, or adjusted when found to be ineffective. As a result, the response does not meet the criteria to be awarded the point.

Decision: No additional point is awarded.

Conclusion:

The raw scores for each of the major categories and each question were assigned weights that were determined prior to the receipt of any proposals. After weighting, the highest possible score was 100. Although, as a result of this decision 4 points were added to MCP's raw score, after recalculating the weighting of the raw scores, MCP's final score changed from 62.92 to 63.45. This does not change MCP's rank as the 5th place bidder in Pima County. The protest is denied, and the decision not to award MCP a contract in Pima County stands. In accordance with A.A.C. R9-22-604 (I) you may file an appeal about the procurement officer's decision within five (5) days from the date the decision is received.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Veit", written over a horizontal line.

Michael Veit
Procurement Officer